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Attorneys for Plaintiff BLACK CARD LLC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

BLACK CARD LLC, a Wyoming Limited
Liability Company,

Plaintiff,

v.

AMERICAN EXPRESS MARKETING &
DEVELOPMENT CORP. a Delaware corporation;
AMERICAN EXPRESS TRAVEL RELATED
SERVICES COMPANY, INC. a New York
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 10cv0025-D

BLACK CARD LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE plaintiff Black Card LLC ("BC LLC") will and hereby does move the Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for an Order granting BC LLC's Motion for Partial Summary Judgment on the First Claim for Relief (Declaratory Relief) of BC LLC's Complaint against defendants American Express Marketing & Development Corp. and American Express Travel Related Services Company, Inc. (collectively, "American Express").

BC LLC's Motion is made on the ground that there are no disputed issues of material fact as to the First Claim for Relief (Declaratory Relief) of BC LLC's Complaint and, therefore, BC LLC is entitled to Declaratory Relief that (a) American Express has no protectable trademark rights in "Black Card" or "Blackcard"; and (b) BC LLC's use and the use by Visa and Barclays of "Black Card" or "Blackcard" does not infringe any valid trademark right of American Express or otherwise violate any of American Express' rights.

This Motion is based upon this Motion, the accompanying Memorandum of Points and Authorities, Proposed Findings of Facts and Conclusions of Law, Declarations of Ronald P. Oines, Natalie M. Gowin and Kelly Akin and attached exhibits, Request for Judicial Notice and attached exhibits, and Index of Confidential Documents and attached exhibits, and upon such other matters as may be presented to the Court on BC LLC's behalf in connection with this Motion.

Dated: This 15th day of September, 2010

/s/ Ronald P. Oines

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